REMARKS

Applicants respectfully request reconsideration and allowance of claims 1-3, 6-13, 16-23, 26-33 and 36-40 that are pending in the above-identified patent application. Applicants have amended claims 1, 11, 16, 21 and 31 and have canceled claims 4, 5, 14, 15, 24, 25, 34 and 35.

The above-noted amended claims are respectfully submitted to more clearly and more appropriately claim the subject matter which Applicants consider to constitute their inventive contribution. No new matter has been included in these amendments.

In general, the amendments to independent claims 1, 11, 21 and 31 have been made to include the elements set forth in claims 4-5, 14-15, 24-25 and 34-35, respectively. Support for these claim amendments can be found in the dependent claims as originally filed as well as the specification at pages 10-18.

The Examiner rejected claims 1-5, 9-15, 19-25, 29-35 and 39-40 as being anticipated under 35 U.S.C. § 102(b) by *Kauffman*, U.S. Patent No. 5,003,591 (the "*Kauffman*" reference). Applicants respectfully traverse these rejections.

A reference anticipates a claimed invention only if the reference teaches each and every aspect of the claimed invention explicitly or implicitly. Any feature not directly taught by the reference must be inherently present. As stated by the Federal Circuit, "[e]very element of the claimed invention must be literally present, as arranged in the claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236; 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully submit that the *Kauffman* reference fails to teach

each and every element of the claimed invention in each of the independent claims as amended.

Regarding independent claims 1, 11, 21 and 31, the *Kauffman* reference fails to teach or suggest the combination of features in these independent claims. In particular, with respect to claim 1, the feature of "converting said unique terminal information into converted unique terminal information comprising a key ID . . . [and] returning said converted unique terminal information comprising a key ID to said unique terminal information . . ." is not disclosed. With respect to claim 11, the *Kauffman* reference fails to disclose a system for transmitting data comprising the combination of elements recited and in particular "wherein said transmission apparatus transmits said unique terminal information converted into a key ID to said one receiving terminal and said one receiving terminal converts said converted unique terminal information back to said unique terminal information and then stores said unique terminal information in said storage location."

Similarly, independent claim 21, as amended comprising a receiving system for receiving data transmitting from a transmission apparatus, which, in combination with other elements, includes "wherein converted unique terminal information is obtained by converting said unique terminal information into a key ID."

Finally, independent claim 31 comprises a method of receiving data transmitted from a transmission apparatus to one of a plurality of receiving terminals, which in combination with other elements, comprises "converting said unique terminal information into a key ID."

Thus, because the feature of converting unique terminal information comprising a key ID is not disclosed or inherent in the *Kauffman* reference, Applicants respectfully request withdrawal of this rejection. Further, claims 2-3, 6-10, 12-13, 16-20, 22-23, 26-30, 32-33 and 36-40 depend from independent claims 1, 11, 21 and 31, respectively, and contain all of the limitations thereof as well as other limitations that are neither disclosed nor suggested by the prior art of record. Accordingly, Applicants submit that the subject dependent claims are likewise patentable and the rejection as to these claims should be withdrawn.

In numbered parts 4-5, the Examiner rejected claims 6-8, 16-18, 27-28 and 36-38 under 35 U.S.C. § 103(a) as being anticipated over *Kauffman* and further in view of Official Notice taken by the Examiner. Applicants respectfully traverse the Examiner's rejection. As to these dependent claims, Applicants have noted above that the *Kauffman* reference neither discloses nor suggests each and every feature in any of independent claims 1, 11, 21 or 31, from which claims 6-8, 16-18, 27-28 and 36-38 depend, respectively. Accordingly, Applicants submit that these claims are patentable over the *Kauffman* reference. Further, the taking of Official Notice fails to remedy the deficiencies of the *Kauffman* reference in connection with the particular features of independent claims 1, 11, 21 and 31, discussed hereinabove. Accordingly, Applicants submit that the cited combination of *Kauffman* and Official Notice fails to render the dependent claims unpatentable. Accordingly, Applicants respectfully request that the Examiner withdraw his § 103(a) rejection thereof.

In addition to the above, Applicants respectfully submit that the Examiner's Official Notice is improper. It is inappropriate to take Official Notice without documentary evidence to support the Examiner's conclusion. "Official Notice unsupported by documentary evidence should only be taken by the Examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known." M.P.E.P. § 2144.03(A).

Here the Examiner takes Official Notice that "[i]t would have been obvious for one of ordinary skill of the art at the time the invention was made, to modify *Kauffman* to utilize satellite technology at least for the advantage of reaching a wider range of subscribers." Similarly, the Examiner takes Official Notice that it would have been obvious "to modify *Kauffman* to utilize Internet technology . . . ." Finally, the Examiner takes Official Notice stating that it would have been obvious "to modify *Kauffman* to utilize terrestrial technology at least for the advantage of reaching a wider range of subscribers[.]" Applicants submit that it is not appropriate to take such Official Notice without citing a prior art reference or other documentary evidence. That is, "[t]he Examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge. . . . the Applicant should be presented with the explicit basis on which the Examiner regards the matter as subject to Office Notice and be allowed to challenge the assertion in the next reply after the Official action in which the common knowledge statement was made." M.P.E.P. § 2144.03(B). (Citations omitted.)

Applicants respectfully submit that merely stating that it would have been obvious to modify *Kauffman* to use satellite technology, Internet technology or terrestrial technology is not sufficient to support the Examiner's Official Notice of common knowledge. Therefore, Applicants respectfully request that the Examiner provide substantial evidence on the record to support his assertion of the above-identified Official Notice taken.

In addition to the above, assuming, *arguendo*, that the Examiner's rejection under § 103(a) (by way of the *Kauffman* reference in view of Official Notice) is proper, Applicants respectfully submit that it would be improper to combine the suggested disclosures from *Kauffman* with the Official of Notice of either satellite technology, Internet technology or terrestrial technology because such modification would both render the *Kauffman* reference unsatisfactory for its intended purpose and change the principal of operation of the *Kauffman* system. Indeed, if *Kauffman* were to replace the first data channel and second data channel with a broadband satellite, Internet or terrestrial network, then the intent of *Kauffman* would be circumvented, rendering the *Kauffman* system unsatisfactory for its intended purpose. It is well settled that if a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose (as would be the case here), then there is no suggestion or modification to make the proposed modification. M.P.E.P. § 2143.01.

It is also well settled that if the proposed modification or combination of the prior art would change the principal of operation of the prior art invention being modified (as is the case here), then the teaching of the references are not

sufficient to render the claims *prima facie* obvious. M.P.E.P. § 2143.01. Finally, even if the *Kauffman* reference was modified as the Examiner suggests, the combination would not disclose or suggest each and every feature as required by the dependent claims of the instant application. Accordingly, Applicants respectfully submit that the Examiner's reliance on the combined teachings of the *Kauffman* reference and his Official Notice is untenable and should be withdrawn.

In view of the foregoing, Applicants submit that the instant claims are in condition for allowance. Early and favorable action is earnestly solicited. If, however, for the any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome the additional objections which he may have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: January 7, 2004

Respectfully submitted,

By _____

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